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9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF WASHINGTON  
11 AT TACOMA

12 GREGORY TYREE BROWN,

13 Plaintiff,

14 v.

15 DEVON SCHRUM *et al.*,

16 Defendants.  
17

Case No. C08-5326RBL/JKA

ORDER ON PENDING  
MOTIONS

18 This civil rights matter has been referred to Magistrate Judge J. Kelley Arnold pursuant to 28  
19 U.S.C. § 636(b)(1), Local Magistrate Judge's Rules MJR 3 and 4, and Rule 72 of the Federal Rules of  
20 Civil Procedure. Plaintiff filed three motions in response to a motion for summary judgment. The first  
21 motion asks for stay of the summary judgment motion pending discovery (Dkt. # 16).

22 Many of the claims in this action are time barred. Further, one claim fails as a matter of law. The  
23 defendants should not be forced to answer discovery on these claims. The motion to stay the summary  
24 judgment motion is **DENIED**.

25 Plaintiff's second motion asks for leave to seek discovery from a non party, Dr. Champoux (Dkt. #  
26 17). The facts disclose Dr. Champoux may have information relevant to the case and the motion is  
27 **GRANTED**.

28 Plaintiff's final request is for appointment of counsel (Dkt. # 19). There is no right to have

1 counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. §  
2 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so  
3 only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin  
4 v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A  
5 finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits  
6 and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues  
7 involved. Wilborn, 789 F.2d at 1331.

8 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. See, Complaint (Dkt  
9 # 7). Accordingly, Plaintiff's Motion to Appoint Counsel (Dkt. # 19) is **DENIED**.

10 The clerk is directed to send a copy of this order to plaintiff and counsel for defendants.

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12 DATED this 20 day of February, 2009.

13  
14 /S/ J. Kelley Arnold  
15 J. Kelley Arnold  
16 United States Magistrate Judge  
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